

Message Text

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FM SECSTATE WASHDC

TO USMISSION IAEA VIENNA

INFO AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY THE HAGUE

USMISSION EC BRUSSELS

USMISSION GENEVA

C O N F I D E N T I A L STATE 175579

E.O. 11652: GDS

TAGS: PARM TECH IAEA

SUBJECT: US-EURATOM AGREEMENT RESTRICTIONS ON TRANSFERS OF
MATERIAL FROM COMMUNITY

REF: IAEA VINNA 6204

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1. AS MISSION INDICATED PARA 5 REFTTEL, ARTICLE ELEVEN OF JOINT PROGRAM AGREEMENT, WHICH IS INCORPORATED INTO ADDITIONAL AGREEMENT BY LATTER'S ARTICLE FIVE, PROVIDES THAT NO MATERIAL, INCLUDING EQUIPMENT OR DEVICES, TRANSFERRED TO COMMUNITY UNDER EITHER AGREEMENT MAY BE TRANSFERRED OUTSIDE COMMUNITY WITHOUT USG APPROVAL.

2. WITH RESPECT TO PRODUCED MATERIAL, AGREEMENTS DIFFER. ARTICLE ONE-BIS PARA D OF ADDITIONAL AGREEMENT, AS AMENDED BY ARTICLE TWO OF 1972 AMENDMENT, PROVIDES THAT MATERIAL PRODUCED IN OR BY USE OF MATERIAL TRANSFERRED INTO COMMUNITY PURSUANT THIS AGREEMENT MAY BE TRANSFERRED OUTSIDE COMMUNITY PROVIDED RECIPIENT NATION OR GROUP OF NATIONS HAS "APPROPRIATE" AGREEMENT FOR COOPERATION WITH US OR GUARANTEES USE OF SUCH MATERIAL FOR PEACEFUL PURPOSES "UNDER SAFEGUARDS ACCEPTABLE TO THE PARTIES." SINCE THE US WOULD HAVE TO BE INVOLVED IN ANY JUDGMENT AS TO WHETHER A US AGREEMENT WAS "APPROPRIATE" (E.G., FOR AN AUTHORIZED USE OR WITHIN AN APPLICABLE CEILING) AND WOULD ALSO HAVE TO BE INVOLVED IN ANY DECISION AS TO ACCEPTABILITY OF SAFEGUARDS, THE EFFECT OF THIS PROVISION IS THAT USG CONSULTATION IS REQUIRED PRIOR TO TRANSFER OF SUCH MATERIAL OUTSIDE COMMUNITY.

3. JOINT PROGRAM AGREEMENT DOES NOT REPEAT NOT CONTAIN PROVISION SPECIFICALLY PRECLUDING TRANSFER OF PRODUCED MATERIAL OUTSIDE COMMUNITY WITHOUT USG APPROVAL. WHEN THIS AGREEMENT AND ITS 1962 AMENDMENT WERE NEGOTIATED, HOWEVR, MATERIAL TO BE PRODUCED WAS REGARDED AS ENCOMPASSED WITHIN TRANSFERRED MATERIAL BY USE OF WHICH IT WOULD BE PRODUCED. THEREFORE, IN US VIEW ANY TRANSFER OUTSIDE COMMUNITY, WITHOUT US APPROVAL, OF MATERIAL PRODUCED BY USE OF MATERIAL TRANSFERRED UNDER JOINT PROGRAM AGREEMENT WOULD BE CONTRARY TO ORIGINAL INTENTION OF THE PARTIES.

4. WHILE NOT DIRECTLY PERTINENT TO MISSION QUERY, IT MAY BE NOTED THAT ARTICLE THREE-F OF JOINT PROGRAM AGREEMENT, AS

AMENDED 1962, GRANTS IAEA FIRST OPTION TO PURCHASE MATERIAL PRODUCED IN REACTORS FUELED WITH MATERIAL OBTAINED FROM US WHICH IS IN EXCESS OF NEED WITHIN COMMUNITY FOR SUCH MATERIAL FOR PEACEFUL USES. THIS IMPLIES COMMUNITY OBLIGATION TO INFORM IAEA
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OF EXISTENCE OF ANY EXCESS PRODUCED MATERIAL. IT WOULD BE INTERESTING TO KNOW WHETHER IAEA HAS BEEN INFORMED OF EXISTENCE OF ANY SUCH EXCESS MATERIAL AND, IF SO, WHETHER IT HAS EVER EXERCISED PURCHASE OPTION.
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